

Comment Set 31

EAST BAY REGIONAL PARK DISTRICT



July 28, 2003

Ms. Judy Brown
State Lands Commission
Division of Land Management
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202

Subject: Comments on DEIR for the Concord to Sacramento Petroleum Pipeline Project
Waterbird Regional Preserve

Dear Ms. Brown:

Thank you for providing the East Bay Regional Park District ("District") with a copy of the draft Environmental Impact Report for the proposed Concord to Sacramento Petroleum Pipeline Project. As proposed, this project would result in direct and indirect effects to Waterbird Regional Preserve. Direct effects include construction, operation and maintenance of approximately a 300 segment of petroleum pipeline through the Preserve (APN's 380-010-015-2 and 380-010-022-8). Indirect effects include construction related impacts to water quality and wildlife in the adjacent McNabney Marsh and noise and traffic disruption to visitors at Waterbird Regional Preserve. We also remain concerned about the potentially significant effects of pipeline failure on McNabney Marsh.

We could not find where in the Draft EIR potential direct and indirect effects to McNabney Marsh and Waterbird Regional Preserve were identified or evaluated. We did not receive a Notice of Preparation for the DEIR to provide scoping comments in regard to District interests. Agents representing Kinder Morgan contacted the District on two previous occasions. We responded to these inquiries on December 5, 2001, via memoranda to Brooks Baxter at Paragon Partners, and on April 7, 2003, via email to Thomas Burton of Spec Services (see attached). Both of our earlier communications with Kinder Morgan's agents noted that the proposed project would impact two District owned parcels; however, it does not appear that such information was considered in preparing the DEIR.

Table A-1 should be revised to note that project applicant will be required to obtain an easement for the pipeline through Waterbird Regional Preserve and an Encroachment Permit to construct and maintain the pipeline in the Preserve. Conveyance of the easement is a discretionary action taken by the District's Board of Directors. A conveyance of easement is often Categorically Exempt from the requirements of CEQA.

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In those cases where a project is not Categorical Exempt or when there is a potential for significant effects, the District would need to prepare a CEQA document. In these cases, the District often acts as a Responsible Agency under CEQA and relies upon the CEQA documents prepared by the Lead Agency. In this case, impacts to Waterbird Preserve do not appear to have been addressed in the DEIR. Therefore, the DEIR would need to be revised to address such impacts and to adopt appropriate mitigation measures.

31-1

Page D.2-45 of the DEIR evaluates an impact scenario for the accidental release of petroleum products into the Carquinez Straits from pipeline failure. A similar impact scenario should also be performed for the same impacts to McNabney Marsh and the adjacent marshlands along Pacheco Slough. McNabney Marsh was acquired and restored using funding provided from an earlier oil spill by Shell Oil. How many barrels of oil would be released into this marsh from a failure of the proposed pipeline? What types of controls will be implemented to prevent or minimize the effects of such a release? What types of habitats and species would be impacted by such a release? How does construction of the pipeline or release of petroleum impact Rhodia's efforts to remediate and restore nearby marshlands along Pacheco Slough?

31-2

I have enclosed a copy of the Land Use Plan and environmental document for Waterbird Regional Preserve for your information. Please call me should you have any questions regarding our letter. I can be reached at (510) 544-2622.

31-3

Sincerely,



Brad Olson
Environmental Programs Manager

Attachments (3)

cc. w/out attachments: Priya Ganguli, SFRWQCB
David Contreras, Mt. View Sanitary District
Mary Brown, Rhodia, Inc.

Responses to Comment Set 31

- 31-1 Table A-1 (Permits Required) has been revised with this Final EIR to show that a discretionary easement and an encroachment permit would be required by the East Bay Regional Parks District (see Section 4, changes to page A-1). Potential impacts related to construction activities in the vicinity of Waterbird Regional Preserve are addressed in the Draft EIR with appropriate mitigation measures. The lands of the Parks District are identified in Section D.9 (Land Use, Public Recreation, and Special Interest Areas) in Table D.9-3 of the Draft EIR, and Impact LU-1: Pipeline Construction Disturbance to Sensitive Land Uses (Draft EIR, page D.9-18) and Impact T-2: Construction Restricting Property Access (Draft EIR, page D.12-11) address the potentially adverse affects of temporary disruption of access to visitors of the Parks District property. Potential impacts to biological resources and appropriate mitigation measures are set forth in Section D.4 (Biological Resources) of the Draft EIR. These include Impact BB-6: Weed Invasion Affecting Special Status Plant Species, Upland Vegetation, and / or Wetlands (Draft EIR, page D.4-46) and Impact BW-4: Wildlife Disturbance from Increased Human Presence (Draft EIR, page D.4-57), which address impacts to vegetation and wildlife during construction.
- 31-2 In the Draft EIR, Section D.2.3.7, four locations are analyzed for site-specific results during spill scenarios. McNabney Marsh and Pacheco Slough are not included for site specific analysis in the Draft EIR because it would be impractical to analyze every location along the pipeline. Although these locations are not specifically evaluated, Table D.2-9 (Draft EIR, page D.2-11) provides data that may be used to analyze accident impacts at any site along the system. Table D.2-9 (Column C) provides the anticipated number of various release volumes for any one-mile segment of the proposed pipeline, over the project's 50-year life. For example, 0.042 unintentional releases of 100 barrels or more are anticipated from any one-mile pipe segment. Should the McNabney Marsh be affected by a spill from only one-half mile of pipeline, 0.021 (0.5 miles times 0.042 incidents per mile) unintentional releases of 100 barrels or more would be anticipated over the project's 50-year life. The data presented in Table D.2-9 may be used to estimate the anticipated likelihood of various sized events, for any length of pipeline, for the proposed 20-inch diameter line.
- 31-3 The CSLC appreciates receiving a copy of the Waterbird Regional Park Land Use plan, which will be included in the project files and in the CSLC environmental resources reference library.